

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA	§	
	§	
VS.	§	
	§	CRIMINAL NO. H-05-0078-1
CHRISTOPHER WILLIAMS,	§	
	§	
Defendant.	§	

MEMORANDUM AND ORDER

Pending before the Court is Defendant's second motion to clarify the judgment in this case. Defendant seeks an Order directing the United States to house him in a federal correctional facility for the duration of his federal sentence. The United States opposes the motion and asks that the Court permit Defendant's transfer to a Texas state correctional facility to serve his concurrent federal and state sentences.

Although Defendant was initially taken into custody by Texas state authorities, he was first sentenced by this Court. At the time that the Court pronounced its sentence, no grounds existed upon which Defendant could have been incarcerated in a state institution, as no state sentence had yet been imposed. Thus, it was implicit in this Court's judgment that the sentence thereby imposed was to be served in a federal facility.

The only possible justification for housing Defendant in a state facility is the sentence subsequently pronounced by a Texas state court. The state judgment, however, explicitly provides that the state sentence is to run concurrently with the federal sentence imposed in this case and is to be served *in a federal correctional institution*. (See Def.'s 2d Mot. To Clarify J., Ex. 1, at 2.) While a state court cannot, of course, compel the federal government to house a state prisoner, the inverse is also true: the federal

government cannot compel a state to imprison a federal convict. Because the state court did not authorize confinement in a state facility, and because this Court lacks the power to do so, Defendant must be housed in a federal correctional facility for the duration of his federal sentence.

As noted above, the federal judgment in this case does not explicitly reflect the Court's intent that Defendant be imprisoned in a federal institution. The reason for this oversight, as explained earlier, is that at the time that that judgment was rendered, no other type of imprisonment was contemplated. Pursuant to FED. R. CRIM. P. 36, therefore, the Court hereby **CORRECTS** the judgment in this case and **ORDERS** that Defendant's federal sentence be served in a federal correctional facility.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 9th day of March, 2006.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**